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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID ANTHONY WILLIAMS,

Defendant and Appellant.

A126024

(Contra Costa County
Super. Ct. No. 050815365)

This is an appeal from the judgment entered after appellant David Anthony Williams pleaded no contest to two felony counts of drunk driving within 10 years of three or more similar convictions, and one misdemeanor count of driving with a suspended license. Pursuant to a negotiated disposition, the trial court suspended imposition of a sentence, and placed appellant on formal probation for five years, subject to various terms and conditions, including a one-year jail term and waiver of all custody credits.

After appellant filed a timely notice of appeal, appellate counsel was appointed to represent him. Appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*People v. Wende*), in which he raises no issue for appeal and asks this court for an independent review of the record. (See also *People v. Kelly* (2006) 40 Cal.4th 106, 124 (*People v. Kelly*).) Counsel attests that appellant was advised of his right to file a supplemental brief in a timely manner, but he declined to exercise such right.

Mindful that our review is limited to grounds for appeal occurring after entry of the plea (Cal. Rules of Court, rule 8.304(b)(5)), we have examined the entire record in accordance with *People v. Wende*. For reasons set forth below, we agree with counsel that no arguable issue exists on appeal. Accordingly, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On December 24, 2008, an information was filed charging appellant with a felony violation of driving under the influence within 10 years of three or more convictions of driving under the influence or reckless driving while consuming alcohol (Veh. Code, §§ 23152, subd. (a); 23550) (count one); a felony violation of driving while having a blood alcohol content of 0.08 or more within 10 years of three or more convictions of driving under the influence or reckless driving while consuming alcohol (*id.*, §§ 23152, subd. (b); 23550) (count two); and a misdemeanor violation of driving on a suspended or revoked license while under the influence of alcohol (*id.*, § 14601.2, subd. (a)) (count three).¹ The information also alleged that appellant was presumptively ineligible for probation based on seven prior felony convictions. (Pen. Code, § 1203, subd. (e)(4).)

The charges against appellant arose from events occurring on January 14, 2008. A City of Richmond police officer stopped appellant for driving with a false registration tab affixed to his rear license plate. Suspecting appellant was intoxicated, the officer administered several field sobriety tests, which appellant failed. Appellant was arrested after the officer determined he was driving with a suspended license. Appellant thereafter provided two breath test samples, which indicated a blood alcohol content of 0.12 and 0.13, respectively.

Initially, on May 29, 2009, appellant pleaded not guilty to all charges and denied the allegations against him. However, on July 1, 2009, a negotiated disposition was reached, under which appellant entered a no contest plea to all charges against him and received five years of formal probation, subject to various terms and conditions, including a one-year jail term and waiver of all custody credits. Appellant was also given

¹ Unless otherwise stated, all statutory citations herein are to the Vehicle Code.

the option of spending the last 90 days of his jail term in a residential treatment program for full credit. Upon entering the plea, appellant voluntarily waived certain fundamental constitutional rights, including his right to a trial by jury, to confront and cross-examine witnesses, and to not incriminate himself.²

That same day, the trial court suspended imposition of a sentence and ordered felony probation for appellant consistent with the terms of the negotiated disposition. In addition, the trial court ordered appellant to, among other things, produce a DNA sample (Pen. Code, § 296) and to pay a \$90 court construction fee (Gov. Code, § 70373), the cost of probation services up to \$50 per month (not to be assessed until after his release from jail), a \$60 court security fee (Pen. Code, § 1465.8), a \$200 restitution fine (*id.*, § 1202.4, subd. (b)), a stayed \$200 probation revocation restitution fine (*id.*, § 1202.44), and a \$1,628 fine for driving under the influence.

On August 18, 2009, appellant filed a timely notice of appeal, as well as a request for a certificate of probable cause, which the trial court denied.

DISCUSSION

Neither appointed counsel nor appellant has identified any issue for our review. Upon our own independent review of the entire record, we agree none exists. (*People v. Wende, supra*, 25 Cal.3d 436.) Appellant, represented by competent counsel, was placed on felony probation for five years, subject to certain express terms and conditions, including serving 365 days in county jail and waiving all custody credits. He was also given the option of spending the last 90 days of his jail term in a residential treatment program for full custody credit. This probation was lawful, and was imposed in accordance with appellant's valid plea agreement. (Cal. Rules of Court, rule 4.414; Pen. Code, §§ 1016-1018, § 1192.5.) Having ensured appellant has received adequate and effective appellate review, we thus affirm the trial court's judgment. (*People v. Kelly, supra*, 40 Cal.4th at pp. 112-113.)

² Counsel stipulated to the factual basis for the plea, as set forth in the preliminary hearing transcript.

DISPOSITION

The judgment is affirmed.

Jenkins, J.

We concur:

McGuiness, p. J.

Pollak, J.